IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

OP.No. 30875 of 1999(A)

PETITIONER:

P. MUTHUKRISHNAN, AGED 57 YEARS, SON OF PONNUSWAMY,
CHINNASERAMBI, VANNAMADA P.O., CHITTOOR TALUK,
PALAKKAD DIST 678 555.

BY ADV. SRI.P.SANTHALINGAM
SRI.A.D.SHAJAN

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY TO GOVT.,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE TAHSILDAR, REVENUE RECOVERY, CHITTUR, PALAKKAD DIST 678 555

3. THE VILLAGE OFFICER, KOZHIPATHI, ERUTHEMPATHI P.O.,
KOZHINJAMPARA-PALAKKAD DISTRICT 678 555

4. SALES TAX OFFICER, OFFICE OF THE SALES TAX OFFICER, CHITTUR,
PALAKKAD DIST.

5. MURALI, SON OF KUTTIKRISHNAN, RESIDING NEAR ST. PAUL'S HIGH SCHOOL,
KOZHINJAMPARA, PALAKKAD.

R1 TO R4 BY GOVERNMENT PLEADER SRI. V. TEKCHAND
R5 BY ADV. SRI.G.HARIHARAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 13/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER ON CMP 52612 OF 1999 IN OP 30875 OF 1999

DISMISSED

13.11.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE DEMAND NOTICE NO. C5.115/99 DATED 6.11.1999 ISSUED BY THE 2ND RESPONDENT.

EXT.P1(a) ENGLISH TRANSLATION OF EXT.P1

EXT.P2 TRUE COPY OF THE DEMAND NOTICE FORM NO. 10 DATED 6/11/99 ISSUED BY 2ND RESPONDENT.

EXT.P3 TRUE COPY OF THE REPRESENTATION DATED 18.11.1999 SUBMITTED BY THE PETITIONER TO THE 4TH RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

O.P. NO. 30875 OF 1999

Dated this the 13th day of November, 2007

JUDGMENT

Petitioner is challenging recovery proceedings initiated against him for recovery of arrears of sales tax due for the years 1987-88 and 1988-89. Even though petitioner has stated that he has not carried on business, during inspection of the liquor business, fifth respondent gave a list of partners which included the petitioner. Since petitioner is a partner of the firm, petitioner is liable for recovery proceedings by virtue of Section 21 of the KGST Act. However, Government Pleader reported that fifth respondent has taken instalment facility from the Government and has remitted some amount. If liability is discharged by the fifth respondent, then of course there is no scope for recovery from the petitioner or any other partner. However, if payment is not made, recovery can be continued against the petitioner and other partners.

O.P. is disposed of as above.

(C.N. RAMACHANDRAN NAIR)
Judge